THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No. 27366 of 2006

DATED: 28-08-2007

Between:

Amaravathi Ramesh Gupta

…Petitioner

and

The District Collector,
Ranga Reddy District and others

…Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

W.P.No. 27366 of 2006

Oral order:

Pursuant to the order of this Court, dated 14-8-2007, the respondents are present. A counter is also filed.

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue.

The petitioner assails a communication addressed by the 1st respondent to the 2nd respondent dated 18-1202006 whereunder the 1st respondent refers to a report from the 2nd respondent intimating that an extent of Ac.4-00 gts of assigned land in Sy.No.124/58 and an extent of Ac.3-16 gts in Sy.No.124/56 in Mangalpally Village was resumed under the provisions of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act'). The letter further states that the 3rd respondent had requested for alienation of Ac.2-00 gts of land in Sy.No.124/126 of Patelguda Village, Ibrahimpatnam Mandal, but the 2nd respondent's report to the 1st respondent was silent on the availability of land in Sy.No.124/126 of Patelguda Village. The letter directs the 2nd respondent to send the land availability report for the land bearing Sy.No.124/126 of Patelguda Village along with location sketch and if no land is available in Sy.No.124/126 of Patelguda village, to send transfer proposals for the land bearing Sy.No.124/58 (in an extent of Ac.2-00 gts out of the total extent of Ac.4/05 gts stated to have been resumed) in Mangalpally Village. On the basis of this letter, the petitioner apprehends dispossession from his land in Sy.No.124/58 in Mangalpally Village.

The petitioner claims to be the owner and to be in possession of an

extent of an extent of Ac.10-07 guntas agricultural land in Sy.Nos. 124/43, 56, 57 and 58 of Mangalapally Village, Ibrahimpatnam Mandal having purchased the said extent of land from the original owners under registered sale deeds. He asserts that mutation was also made in the revenue records and that the land is not assigned land.

The 1st respondent initially issued a notice dated 28-3-1995 seeking to invoke the provisions of the Act alleging that the sale transaction in favour of the petitioner is not valid under the provisions of the Act. The petitioner questioned the notice by way of writ petition No.12485 of 1995. This writ petition was disposed of directing the petitioner to submit his explanation to the notice including raising an objection as to the jurisdiction of the respondents. The petitioner submitted a reply dated 17-5-1995 asserting that the land is not assigned land and hence the provisions of the Act have no application. No orders were passed on the notice dated 28-3-1995 despite his explanation thereto dated 17-5-1995.

Without proceeding further on the notice dated 28-3-1995 the 1st respondent issued another notice dated 20-5-1999 reiterating that the land is assigned land; that the transaction of the petitioner is hit by the provisions of the Act and called for his explanation. The petitioner submitted an explanation on 31-5-1999 claiming to be a landless poor person and asserting that the land is not an assigned land. No action was taken thereon. Apprehending dispossession even without a formal order passed under the provisions of the Act, the petitioner filed another writ petition No.12746 of 1999 against the respondents 1 and 2 herein. By an interim order dated 20-6-1999 further action by the respondents was interdicted. On 8-7-1999 the petitioner received a notice from the 2nd respondent that the hearing will occur on 20-7-1999. The petitioner attended the office of the 2nd respondent on the said date but there was no hearing. W.P.No.12746 of 1999 was disposed of on 10-9-1999 directing the 2nd respondent to conduct an enquiry in pursuance of the show-cause notice dated

20-5-1999 and pass orders after considering the explanation of the petitioner and an opportunity of hearing afforded.

Asserting that no enquiry was yet conducted by the 2nd respondent and when a request was made through an advocate letter, the 2nd respondent had communicated a copy of the letter dated 29-7-2004 addressed to the learned Government Pleader which shows that no orders were passed and when the registration of the sale of this land by the petitioner to some other person was not entertained by the Sub-Registrar, Ibrahimpatnam, Ranga Reddy District on the ground that all such transactions are prohibited under the notification issued by the Government of Andhra Pradesh under Section 22-A of the Registration Act, 1908, the petitioner was constrained to file another Writ Petition No.4449 of 2005. The writ petition was allowed on the ground that the registration of any document presented by the petitioner would be subject to adjudication by the Supreme Court in a writ petition pending before the Supreme Court regarding prohibitory orders on registration.

Judicial notice can be taken of the fact that following the decision of the Supreme Court, this Court invalidated the provisions of Section 22-A of the Registration Act, to the extent enabling prohibitory orders to be passed by the Government directing non-registration of any transaction which is compulsorily registerable.

The petitioner was sought to be dispossessed by an official of the 3rd respondent and on enquiry he was given a copy of the impugned letter whereby the petitioner's land in Sy.No.124/58 of Mangalapally is stated to have been resumed under the provisions of the Act and part of that land is proposed to be assigned to the 3rd respondent.

The learned counsel for the petitioner categorically and clearly asserts that no notice was issued to him before passing an order of resumption. The learned Government Pleader states that as the petitioner is not residing in Mangalapally Village, a copy of the notice proposing resumption of the land for violation of the provisions of the Act was pasted on the tree in the village. It is admitted by the learned

Government Pleader that no publication in the newspapers were issued nor any other mode of service of notice on the petitioner, as ordained by law, was pursued.

In the above state of facts, all proceedings initiated by the respondent for resumption of the petitioner's land for violation of the provisions of the Act are patently incompetent and inoperatable for violation of the principles of natural justice and the statutory requirement of notifying an affected person of a proposal to resume the assigned land for the violation of the provisions of the Act. It is trite that under the provisions of the Act not all the assigned lands fall within the technical definition of assigned lands under the Act. The prohibition against alienation specified in Section 3 of the Act must be understood in the context of the statutory definition of assigned lands. As defined 'assigned land' means lands assigned by the Government to the landless poor persons under the rules for the time being in force, subject to the condition of non-alienation and includes lands allotted or transferred to landless poor persons under the relevant law for the time being in force relating to land ceilings; and the word 'assigned' shall be construed accordingly (Sec.2(1) of the Act). Any notice alleging violation of the provisions of the Act by a person in occupation as an assignee of Government land will therefore have to specifically allege that the possession or occupation on the basis of a transfer in favour of the current occupier or person in possession is in transgression of the provisions of the Act and in view of the provisions of Section 2 (1) of the Act which defines the expression 'assigned land' as hereinabove noticed. The notice dated 14-3-2005 by the 3rd respondent does not even remotely confirm to this requirement. It is a fraud and laconic notice which states that the petitioner is found to have assigned lands specified in the schedule, in contravention of the provisions of Sub-section (2) of Section 3 of the Act. The contravention is not spelled out nor it is asserted that the assignment in favour of the vendors of the petitioner was with a condition prohibiting alienation under the provisions of the Act or under the provisions of the Ceiling law which prohibits alienation of

assignment. Such laconic notice does not conform to the requirements of natural justice and is a fraud on due procedure. Such vagrant exercise of procedural requirement does not confirm to the requirements of the statute that a due notice has to be served on the person affected. The notice itself is therefore seen to be invalid and incompetent.

On the aforesaid analysis, the letter of the 1st respondent directing the 2nd respondent to resume the land in an extent of Ac.2-00 gts out of the total extent of Ac.4-00 gts in Sy.No.124/58 8in Mangalapally Village for assignment to the 3rd respondent on resumption from the petitioner, is seen to be patently incompetent, since no valid proceedings were initiated against the petitioner for resumption of the lands in his possession which he had purchased under a document duly and publicly recorded by registration of the sale deed under the provisions of the Registration Act, 1908. Even the laconic notice as aforementioned was duly served to the petitioner. The tree on which the proposed resumption notice was pasted in Mangalapalli Village is not a constituted agent of the petitioner under any known law. The State is required to issue a notice to the petitioner.

The learned counsel for the petitioner has now furnished the address of the petitioner to the learned Government Pleader for Revenue which is as follows:

Mr. Amaravathi Ramesh Gupta
S/o Rajaiah,
Kammaguda Village,
Hayatnagar (M),
Ranga Reddy District
Cell No. 94408 96608

Any notice sent by the respondents to the petitioner by registered post acknowledgment due to this address shall constitute sufficient communication of notice to the petitioner, since this address is furnished by the petitioner. If the respondents desire to serve a notice on the petitioner to initiate action under the provisions of the Act, such notices shall be issued within a fortnight from today and by registered post and

acknowledgment due apart from any other form of service that the respondents desire to pursue. The notice shall contain the facts, particulars and details as to the circumstances in which the respondents consider the alienation in favour of the petitioner of the lands is invalid in terms of the definition of the expression 'assigned land' in the Act and the prohibition on transfer of assigned land, as set out in Section 3 of the Act. After receipt of the explanation from the petitioner if any is submitted within the time stipulated in the notice and if hearing is proposed by the 2nd respondent and after hearing the petitioner, due decision shall be taken in accordance with law. Such decision shall also be communicated to the petitioner by Registered post acknowledgment due and by any other mode of service as stipulated by the Act and the Rules therein. The decision shall contain the due reasons. In case the 2nd respondent fixes any date of hearing, the 2nd respondent shall hear the petitioner on the said date and if for any reason the hearing is postponed, the petitioner shall be intimated the next date of hearing again by registered post acknowledgment due. Only after a due decision is taken shall the respondents be permitted to deal with the land and if the decision be that the land must be resumed for violation of the provisions of the Act. The respondents shall not take any steps to dispossess the petitioner till then.

The writ petition is disposed of as above. There shall be no order as to costs.

GODA RAGHURAM, J

28-08-2007
GRR